

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

7-ELEVEN, INC.,)	
)	
Plaintiff,)	
)	
vs.)	Case No. 4:16 CV 388 RWS
)	
7 PLUS LLC, et al.,)	
)	
Defendants.)	

ORDER AND MEMORANDUM

This matter concerns Defendants' infringement of Plaintiff 7-Eleven, Inc.'s trademarks. The parties in this matter submitted a consent judgment and on August 10, 2016 I entered the judgment. In the judgment Defendants agreed to remove all signs, colors, and other marks which infringed on the marks of Plaintiff. On November 21, 2016, Plaintiff filed a motion for contempt. The motion stated that Defendants failed to remove a large monument sign on a post bearing the 7 Plus mark in their store parking lot in violation of the judgment in this case.

On January 20, 2017, I entered an order which granted Plaintiff's motion for contempt for failing to comply with the judgment in this case. The order directed Defendants to "immediately remove all remaining uses of the mark 7-Plus, including the pole sign in their parking lot featuring that mark, and must immediately comply with all other aspects of the judgment entered on August 10, 2016." In addition, the order imposed a fine for the continued uses of the 7 Plus mark, including the pole sign, if Defendants failed to remove the marks in compliance with the judgment. The fine was

\$100 per day starting on January 25, 2017 and increased to \$200 per day on February 1, 2017 until all such uses are removed. The order permitted Plaintiff to file a motion for reasonable attorney's fees and costs associated with enforcing the judgment in this case. Finally, the order set a status conference on February 3, 2017 to ascertain Defendants' compliance with the order. The order stated that if the pole sign or any other uses of the 7 Plus mark remain on that date, I would arrange for the United States Marshals and Plaintiff's counsel to proceed to Defendants' premises and remove any uses of the 7 Plus mark at Defendants' expense.

The status conference was held on February 3, 2017. Plaintiff reported that Defendants had failed to remove the sign pole and that other 7 Plus marks may still be in use inside Defendants' store. Neither Defendants nor their counsel appeared at the hearing.

Accordingly,

IT IS HEREBY ORDERED that Defendants 7 Plus LLC and Shadi Khair are fined in the amount of \$2,700 (\$700 from the period January 25 - 31, 2017 and \$2000 from the period February 1 – 10, 2017). This fine is joint and several and must be paid to the Court.

IT IS FURTHER ORDERED that Plaintiff shall coordinate with the office of the United States Marshal Service to arrange a time for Plaintiff's agents to remove the infringing monument sign with the 7 Plus mark from Defendant's store premises under the supervision of the United States Marshals at Defendants' expense. In light of Defendant's refusal to comply with my judgment and my order finding them in contempt,

Plaintiff shall have the right to retain the infringing monument sign to prevent its further display on Defendants' premises.

IT IS FURTHER ORDERED that, at the same time that the monument sign is removed, Plaintiff shall have the opportunity to enter Defendants' store premises and remove any other 7 Plus signage or other infringing 7 Plus materials under the supervision of the Marshals.

IT IS FURTHER ORDERED that Plaintiff may recover from Defendants Plaintiff's reasonable attorney fees, costs, and expenses (including those associated with removing the sign and other infringing materials from Defendants' store premises) incurred after August 10, 2017 in association with its attempts to enforce my judgment entered on that date.

IT IS FURTHER ORDERED that Plaintiff shall file its amended motion for its reasonable attorney fees, costs, and expenses no later than ten days after the removal of the infringing sign and other infringing materials from Defendant's store premises.



RODNEY W. SIPPEL
UNITED STATES DISTRICT JUDGE

Dated this 6th day of February, 2017.